

REMARKS

The Applicant and the undersigned thank Examiner Moore for a careful review of this application. Upon entry of this Amendment, Claims 23-25 and 29-42 are pending. The independent claims are 23 and 35, as amended.

Upon entry of this amendment, Claims 1-4, 6-9, 11-22, and 26-28 are cancelled, and Claims 5 and 10 were cancelled in previous amendments. Consideration of the present application is respectfully requested in view of the foregoing amendments and these remarks, which are responsive to the Official Action mailed May 21, 2004. In the Official Action, the Examiner allowed Claims 23-25 and rejected Claims 1-4, 6-9, 11-22, and 26-28.

Request to Consider New Claims Based on Allowable Subject Matter

Applicant appreciates the indication of allowable subject matter for Claims 23-25. Applicant has amended Claim 23 to correct a minor grammatical error and has added new Claims 29-42. Of these new claims, Claims 29-34 depend from allowed Claim 23, while Claims 36-42 depend from new independent Claim 35. No new matter has been added. Further, new Claims 29-42 recite subject matter that was before the Examiner in earlier claim sets during prosecution of this application. For example, Claim 35 is a method claim that defines inventive subject matter that is substantially similar to the system defined by allowed Claim 23. Applicant respectfully requests consideration of these new claims.

The new independent claim, Claim 35, is a process claim that requires a selection algorithm having similar features to the selection algorithm recited in allowed Claim 23. Claim 35 and Claim 23 each recite a selection algorithm based on a heuristic process to support a learning capability based upon prior communication operations. The Examiner has indicated that Claim 23 contains allowable subject matter in view of the algorithm required by this claim. Applicant submits that the respective algorithm recitations in Claim 35 and its dependent Claims 36-42 likewise distinguish each of these claims from the cited art and that each of these claims is patentable over the cited art.

In view of the foregoing, Applicant respectfully submits that each of Claims 29-42 is in a condition for allowance.

Request to Consider and Initial PTO-1449 Filed Herewith

Applicant respectfully requests the Examiner's consideration of the information listed on the Information Disclosure Statement (PTO-1449) that is submitted herewith under 37 C.F.R. §§ 1.97(d) and (e)(2). As discussed in that Information Disclosure Statement, the listed information has not been known for more than three months to the individuals associated with filing and prosecuting the present patent application.

CONCLUSION

The foregoing is submitted as a full and complete response to the Official Action mailed May 21, 2004. Applicant thanks Examiner Moore for his consideration of the amendments. Applicant respectfully submits that the present application is in condition for allowance. Such action is courteously requested. If there are any issues that can be resolved with an Examiner's Amendment or a telephone conference, a telephone call to the undersigned attorney at 404.572.2888 is respectfully requested.

Respectfully submitted,



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